

COMMONWEALTH OF VIRGINIA

STEVEN T. FOSTER
COMMISSIONER OF INSURANCE



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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

January 21, 1992

Administrative Letter 1992-3

TO: To All Insurance Companies Licensed in Virginia

**RE: Requirements for Reinsurers Desiring to Qualify as
Acceptable Reinsurers under Virginia Code Section 38.2-
1316.2 or 38.2-1316.3**

The reinsurance provisions in Chapter 13 of the Virginia Insurance Code (Title 38.2 of the Code of Virginia, 1950, as amended) were changed by the 1991 Session of the Virginia General Assembly. The provisions of §38.2-1316 were replaced by Article 3.1 of Chapter 13. All cessions made under reinsurance agreements which have an inception, anniversary, or renewal date on or after January 1, 1992 will be subject to the new requirements of Article 3.1.

In accordance with Article 3.1, an insurer licensed in Virginia is allowed credit for a reinsurance transaction if the assuming insurer specifically qualifies under the new provisions of the law. Additionally, the reinsurance agreement itself must satisfy the conditions set forth in §38.2-1316.5. Even if the assuming insurer is a qualified reinsurer and the reinsurance agreement satisfies the conditions of §38.2-1316.5, credit shall be disallowed if there is any indication of financial statement distortion, or if the assuming insurer bears no substantial insurance risk or net loss to itself.

This letter sets forth basic criteria which the Bureau of Insurance will use to determine whether a ceding insurer may take credit pursuant to §38.2-1316.2 or §38.2-1316.3. It explains how an assuming insurer can be recognized in Virginia as a qualified reinsurer. It puts into context the responsibilities of ceding insurers licensed in Virginia in regard to their assuming insurers.

ASSUMING INSURER QUALIFICATIONS:

Reinsurers qualifying under §38.2-1316.2 or §38.2-1316.3 must satisfy minimum financial standards. An assuming insurer may demonstrate this by qualifying under one of the following classifications:

I. When the ceding insurer is a domestic ceding insurer:

- A. Licensed in Virginia as an insurer in good standing (§38.2-1316.2.A.1).
- B. Accredited in Virginia as an accredited reinsurer with surplus of at least \$20,000,000, or in the case of a U.S. branch of an alien assuming insurer, trusted surplus of at least \$20,000,000 (§38.2-1316.2.A.2).
- C. Licensed and domiciled in a state with credit for reinsurance laws substantially similar to Virginia's credit for reinsurance laws, and having surplus of at least \$20,000,000, or trusted surplus of \$20,000,000, in the case of a U.S. branch of an alien assuming insurer (§38.2-1316.2.A.3).
- D. Recognition as a single assuming insurer with a qualifying trust account and trusted surplus of at least \$20,000,000 (§38.2-1316.2.A.4.(a)).
- E. Qualified participation in a group of individual unincorporated underwriters with a qualifying trust account and trusted surplus of at least \$100,000,000 (§38.2-1316.2.A.4.(b)).
- F. Qualified participation in an experienced group of incorporated insurers with aggregate policyholders' surplus of at least \$10,000,000,000, a qualifying trust account, and a joint trusted surplus of at least \$100,000,000 (§38.2-1316.2.A.4.(c)).

II. When the ceding insurer is a foreign or alien ceding insurer:

- A. Licensed in Virginia as an insurer in good standing (§38.2-1316.3.A.1).
- B. Accredited in Virginia as an accredited reinsurer with surplus of at least \$20,000,000, or in the case of a U.S. branch of an alien assuming insurer, trusted surplus of at least \$20,000,000 (§38.2-1316.3.A.1).

- C. Licensed in another state and having a surplus of at least \$20,000,000, or in the case of a U.S. branch of an alien assuming insurer, trusted surplus of at least \$20,000,000 (§38.2-1316.3.A.2).
- D. Recognition as a single assuming insurer with a qualifying trust account and trusted surplus of at least \$20,000,000 (§38.2-1316.3.A.3).
- E. Qualified participation in a group of individual unincorporated underwriters with a qualifying trust account and trusted surplus of at least \$100,000,000 (§38.2-1316.3.A.3).
- F. Qualified participation in an experienced group of incorporated insurers with aggregate policyholders' surplus of at least \$10,000,000,000, a qualifying trust account, and a joint trusted surplus of at least \$100,000,000 (§38.2-1316.3.A.3).

Filing requirements for assuming insurers desiring to qualify as reinsurers under the above classifications are attached. Also attached is a copy of the certificate of assuming insurer, which must accompany specific requests for recognition as an acceptable reinsurer in Virginia under applicable provisions of Article 3.1. Please note: Although there are no specific filing requirements for assuming insurers qualifying under item II, C above, the Bureau of Insurance reserves the right to require information be filed in order to verify that such reinsurers of licensed companies are acceptable.

RESPONSIBILITIES OF THE CEDING INSURER

Ceding insurers are responsible for ensuring the validity of any credit reported on their financial statements. A ceding insurer should be able to assign each of its assuming insurers to one of the above classifications of qualifying reinsurers upon request. If the ceding insurer cannot identify its assuming insurer as falling into one of the classifications cited above, the reinsurance transaction should be effected or secured in a manner that satisfies §38.2-1316.4.1 or §38.2-1316.4.2, respectively.

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Any questions regarding the contents of this letter
should be directed to:

Gregory D. Walker, CPA
Insurance Auditor
Financial Analysis Section
Bureau of Insurance
P.O. Box 1157
Richmond, VA 23209
(804) 786-4604

Sincerely,

A handwritten signature in dark ink, appearing to read "STF", with a long horizontal flourish extending to the right.

Steven T. Foster
Commissioner of Insurance

STF:fah

Attachments

COMMONWEALTH OF VIRGINIA

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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

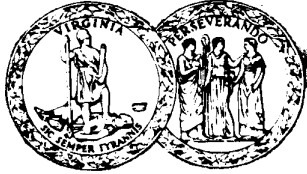
RE: REQUIREMENTS FOR ACCREDITED REINSURERS

In order to obtain accreditation pursuant to Virginia Code §§ 38.2-1316.2.A.2 and 38.2-1316.3.A.1, a foreign assuming insurer must have surplus to policyholders of not less than \$20,000,000, or in the case of a U.S. branch of an alien assuming insurer, have trusted surplus of not less than \$20,000,000. In either case the following items must be submitted to the Bureau of Insurance:

1. A properly executed certificate of assuming insurer in triplicate (form attached);
2. A certified copy of a certificate of authority, license, certificate of compliance, or other evidence that the assuming insurer is licensed to transact insurance or reinsurance in at least one state, or in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
3. A copy of the assuming insurer's Annual Statement for the preceding calendar year and Quarterly Statement for the most recent quarter ended in the current calendar year. Both statements must bear signatures of the officers and a notary public along with a notarial seal. Unless otherwise provided in Title 38.2 of the Code of Virginia, or by any applicable rule, regulation or administrative letter, both statements are to be prepared in accordance with the applicable instructions and the applicable Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners. All schedules and exhibits must be attached;
4. A copy of the assuming insurer's statement of trusted surplus, if the assuming insurer is a U.S. branch of an alien assuming insurer;
5. A copy of the most recent audited financial report; and
6. Any additional information, certifications or reports as the Bureau of Insurance determines to be necessary to verify the license status or financial condition of the assuming insurer.

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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

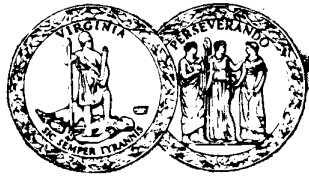
**RE: REQUIREMENTS FOR SUBSTANTIALLY SIMILAR REINSURERS (ONLY
APPLICABLE WHEN RISKS ARE ASSUMED FROM CEDING INSURERS
DOMICILED IN VIRGINIA)**

In order to obtain status as a substantially similar reinsurer pursuant to Virginia Code §38.2-1316.2.A.3, a foreign assuming insurer must have surplus to policyholders of not less than \$20,000,000, or in the case of a U.S. branch of an alien assuming insurer, have trustee surplus of not less than \$20,000,000. Substantially similar standards means standards regarding credit for reinsurance which the Bureau of Insurance determines equal or exceed the standards of Virginia. The surplus requirement for a foreign assuming insurer shall be deemed waived when reinsurance is ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. The following items must be submitted to the Bureau of Insurance:

1. A properly executed certificate of assuming insurer in triplicate (form attached);
2. A certified copy of a certificate of authority, license, certificate of compliance or other evidence that the assuming insurer is licensed to transact insurance or reinsurance in at least one state, or in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
3. A copy of the assuming insurer's Annual Statement for the preceding calendar year and Quarterly Statement for the most recent quarter ended in the current calendar year. Both statements must bear signatures of the officers and a notary public along with a notarial seal. Unless otherwise provided in Title 38.2 of the Code of Virginia, or by any applicable rule, regulation or administrative letter, both statements are to be prepared in accordance with the applicable instructions and the applicable Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners. All schedules and exhibits must be attached.
4. A copy of the assuming insurer's statement of trustee surplus, if a U.S. branch of an alien assuming insurer;

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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

RE: REQUIREMENTS FOR A TRUSTEED REINSURER: SINGLE ASSUMING INSURER

In order to be considered for status as a trustee reinsurance pursuant to Virginia Code §§ 38.2-1316.2.A.4.(a) and 38.2-1316.3.A.3, a single assuming insurer must maintain a trust fund in a qualified United States financial institution for the payment of valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The trust must consist of a trust account representing the assuming insurer's liabilities attributable to business written in the United States, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000. The following items must be submitted to the Bureau of Insurance:

1. A properly executed certificate of assuming insurer in triplicate (form attached);
2. A copy of the trust agreement pertaining to the requisite trust funds along with a statement identifying and locating the specific provisions in the agreement which satisfy the form of trust requirements set forth in Virginia Code §38.2-1316.2.B;
3. A certified statement from the trustee of the trust listing the assets in the trust;
4. A certified statement and accounting of trustee surplus executed by a duly authorized officer or representative of the trustee assuming insurer;
5. Information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers, to enable the Bureau of Insurance to determine the sufficiency of the trust fund; and
6. A certified English translation of any foreign language documents filed.

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Insurers shall report data in the detail prescribed by the report formats. If some information is not available, insurers should estimate appropriate figures to complete the report forms. Any insurer that is experiencing difficulty in completing typed reporting form numbers VCR1, VCR2, VCR3, VCR4, VCR5, and VCR6 may reproduce these forms, enlarging the size of the page but not changing the layout or format, in order to insure readability.

The market definitions provided in Exhibit 3 are to be used as a guide in defining specific markets which are required to be reported. Insurers should also report the required information for policies written under any comparable classification in use by the individual insurer.

Insurers who are members or subscribers of Insurance Services Office (ISO) should contact their liaison officer for assistance regarding the computerized transmission of data. Other insurers not affiliated with ISO should write to the Property and Casualty Division of the Bureau of Insurance requesting assistance.

Should you have any questions, please direct them to:

LaToria H. Tookes
Insurance Analyst
Bureau of Insurance
P. O. Box 1157
Richmond, Virginia 23209
Telephone: (804) 371-8986

Virginia Code Section 38.2-218 provides that any person who knowingly or willfully violates any provision of the insurance laws shall be punished for each violation by a penalty of not more than \$5,000. Failure to file a substantially complete and accurate liability claims report by the due date may be considered a willful violation and subject to an appropriate penalty.

Sincerely,



Steven T. Foster
Commissioner of Insurance

STF:krm

Attachments

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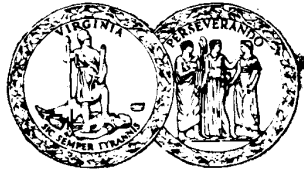
STATE CORPORATION COMMISSION BUREAU OF INSURANCE

RE: REQUIREMENTS FOR TRUSTEED REINSURER: GROUP OF INDIVIDUAL UNINCORPORATED UNDERWRITERS

In order to be considered for status as a trustee reinsurer pursuant to Virginia Code §§ 38.2-1316.2.A.4.(b) and 38.2-1316.3.A.3, a group of individual unincorporated underwriters must maintain a trust fund in a qualified United States financial institution for the payment of valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The trust must consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States, and in addition, the assuming shall maintain a trustee surplus of not less than \$100,000,000. The following items must be submitted to the Bureau of Insurance:

1. A properly executed certificate of assuming insurer in triplicate (form attached);
2. A copy of the trust agreement pertaining to the requisite trust funds along with a statement identifying and locating the specific provisions in the agreement which satisfy the form of trust requirements set forth in Virginia Code §38.2-1316.2.B;
3. A certified statement from the trustee of the trust listing the assets in the trust;
4. A certified statement and accounting of trustee surplus executed by a duly authorized officer or representative of the trustee assuming insurer;
5. Information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers, to enable the Bureau of Insurance to determine the sufficiency of the fund;
6. Annual certifications of the solvency of each underwriting member of the group, prepared by the group's domiciliary regulator and its independent accountant; and

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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

RE: REQUIREMENTS FOR A TRUSTEED REINSURER: GROUP OF INDIVIDUAL INCORPORATED UNDERWRITERS

In order to be considered for status as a trustee reinsurer pursuant to Virginia Code §§ 38.2-1313.2.A.4.(c) and 38.2-1316.3.A.3, a group of individual unincorporated underwriters must maintain a trust fund in a qualified United States financial institution for the payment of valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The trust must consist of a trust account representing the assuming insurer's liabilities attributable to business written in the United States, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$100,000,000. The following items must be submitted to the Bureau of Insurance:

1. A properly executed certificate of assuming insurer in triplicate (form attached);
2. A copy of the trust agreement pertaining to the requisite trust funds along with a statement identifying and locating the specific provisions in the agreement which satisfy the form of trust requirements set forth in Virginia Code §38.2-1316.2.B;
3. A certified statement from the trustee of the trust listing the assets in the trust;
4. A certified statement and accounting of trustee surplus executed by a duly authorized officer or representative of the trustee assuming insurer;
5. Information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers, to enable the Bureau of Insurance to determine the sufficiency of the trust fund;
6. Annual certifications of the solvency of each underwriting member of the group, prepared by the group's domiciliary regulator and its independent accountant;
7. Evidence of submission to the State Corporation Commission's authority to examine the books and records of any member of the group;

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE
P.O. BOX 1157
RICHMOND, VA 23209
CERTIFICATE OF ASSUMING INSURER

PART I: IDENTIFYING DATA

State of Domicile or Entry

NAIC Number

Name of Assuming Insurer

Statutory Home Office (Street Address, City, State, and Zip Code)

Main Administrative Office (Street Address, City, State, Zip Code)

Mailing Address (Street or P.O. Box, City, State, Zip Code)

Contact Person for Regulatory Mail

(_____)_____
Area Code/Telephone Number

PART II: AFFIDAVIT AND SUBMISSIONS

I, _____, _____
(name of officer) (title)

of _____, the assuming insurer under
a reinsurance agreement(s) with one or more insurers domiciled in the Commonwealth of
Virginia, request verification from the State Corporation Commission of the Commonwealth
of Virginia ("Commission") of authorization pursuant to Title 38.2 of the Code of
Virginia as the following type of assuming insurer (check one):

Accredited Reinsurer

Substantially Similar Reinsurer

~~88~~ 38.2-1316.2.A.2 &
38.2-1316.3.A.1

8 38.2-1316.2.A.3

Trusteed Reinsurer (S)

Trusteed Reinsurer (U)

Trusteed Reinsurer (I)

~~88~~ 38.2-1316.2.A.4.(a) &
38.2-1316.3.A.3

~~88~~ 38.2-1316.2.A.4.(b) &
38.2-1316.3.A.3

~~88~~ 38.2-1316.2.A.4.(c) &
38.2-1316.3.A.3

and in support thereof (i) verify the accuracy of the above identifying data and (ii)
certify to the Commission that _____
("the Assuming Insurer"):

1. Is licensed to transact insurance or reinsurance in its state of domicile or entry.
2. Is in good standing in its state of domicile or entry.

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